IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION NO.129 OF 2005

Shardashram Vidya Mandir. ...Petitioner.

Vs.

The State of Maharashtra & Ors. ...Respondents.

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Mr.A.Y.Sakhare, Senior Advocate with Mrs.Varsha Palav for the Petitioner.

Mr.Milind More, AGP for Respondent Nos.1 to 3.

Mr.Susheel Mahadeshwar for Respondent No.4.

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CORAM : DR.D.Y.CHANDRACHUD, J.

February 16, 2005.

P.C. :

The Deputy Director of Education has exercised his powers under the proviso to Rule 29 and Rule 3(6) of the Maharashtra Employees of Private Schools Rules, 1981. The management had imposed a penalty of stoppage of increment for a period of one year on the Fourth Respondent and also superseded her while making an appointment to

the post of Headmaster on the ground that the service record of the Fourth Respondent was not satisfactory. The Deputy Director of Education is, under Rule 3(6), empowered to cancel an appointment made without following the procedure prescribed in Rule 3 in making appointment to the post of Head of a primary school, a secondary school or, as the case may be, a Junior College of Education. Similarly, under the proviso to Rule 29, the Deputy Director is also an Appellate Authority against the imposition of a penalty in a disciplinary proceeding. The order passed by the Deputy Director of Education on 5th October 2004 does not contain any reasons. In these circumstances, I suggested to Learned Counsel that it would be appropriate if the matter is remanded back to the Deputy Director of Education for passing a fresh order without this Court expressing any opinion on the merits of the case. This suggestion is accepted by Counsel appearing on behalf of the Petitioner as well as the Fourth Respondent. Accordingly, by consent and without the expression of any opinion on the merits of the case, the impugned order dated 5th October 2004 passed by the Deputy Director of Education is quashed and set aside. Parties are directed to appear before the Deputy Director of Education on 28th February 2005

at 12 noon on which date, the Appellate Authority shall issue directions for the rehearing of the matter before him. The Deputy Director of Education shall pass final order after furnishing to the parties an opportunity of being heard and it is now expected that a reasoned order shall be passed. The Writ Petition is accordingly disposed of.

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